

SPECIAL CITY COMMISSION MEETING

August 1, 2005



City of Miami Beach

**City of Miami Beach – Special City Commission Meeting
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
August 1, 2005**

Mayor David Dermer
Vice-Mayor Matti Herrera Bower
Commissioner Simon Cruz
Commissioner Luis R. Garcia, Jr.
Commissioner Saul Gross
Commissioner Jose Smith
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez
City Attorney Murray H. Dubbin
City Clerk Robert E. Parcher

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

REGULAR AGENDA

R9 - New Business and Commission Requests

R9A CWA Local 3178 Impasse Resolution Hearing
(City Attorney's Office)

- ❖ No. 1 Letter from Murray H. Dubbin, City Attorney, dated July 19, 2005
- ❖ No. 2 Letter from Robert A. Sugarman, Attorney for CWA Local 3178, dated July 26, 2005
- ❖ No. 3 Letter from Murray H. Dubbin, City Attorney, dated July 27, 2005
- ❖ No. 4 Letter from Richard D. McKinnon, President, CWA Local 3178 to Mayor Dermer and Members of the City Commission dated June 29, 2005
- ❖ No. 5 Letter to Commission No. 166-2005 dated June 24, 2005 from Jorge M. Gonzalez, City Manager

End of Regular Agenda

OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A



MURRAY H. DUBBIN
City Attorney

Telephone: (305) 673-7470
Telecopy: (305) 673-7002

July 19, 2005

Via fax (305) 447-8115 and U.S. mail

Via fax (305) 374-5095 and U.S. mail

Robert Sugarman, Esquire
Sugarman & Susskind
2801 Ponce De Leon Blvd., Ste. 750
Coral Gables, Florida 33134

James Crosland, Esquire
Akerman Senterfitt P.A.
One S.E. 3rd Avenue, 28th Floor
Miami, Florida 33131

Re: Impasse Resolution Hearing-CWA Local 3178
August 1, 2005

Gentlemen:


As you are aware, the Impasse Resolution Hearing before the Miami Beach City Commission regarding CWA Local 3178 ("CWA") will take place on August 1st, 2005 in the Commission Chambers commencing at 10:30 a.m.

The order of presentation will be as follows:

1. The CWA President will have 15 minutes to make an opening presentation on behalf of the CWA.
2. The City Manager will have 15 minutes to make an opening presentation on behalf of the City Administration.
3. The CWA will have 45 minutes for the remainder of its presentation.
4. The City Administration will have 45 minutes for the remainder of its presentation.

If you have any questions, please contact me or Chief Deputy City Attorney Donald M. Papy.

Sincerely,


Murray H. Dubbin
City Attorney

MHD/ym

1700 Convention Center Drive -- Fourth Floor -- Miami Beach, Florida 33139

SUGARMAN & SUSSKIND

PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

Robert A. Sugarman ♦
Howard S. Susskind
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Toll Free 1-800-329-2122
Facsimile (305) 447-8115

July 26, 2005

**Via Facsimile No. (305) 673-7002
and Regular First Class Mail**

Murray H. Dubbin, City Attorney
Donald Papy, Chief Deputy City Attorney
Office of the City Attorney - City of Miami Beach, Florida
1700 Convention Center Drive
Fourth Floor
Miami Beach, FL 33139

*Re: Impasse Resolution hearing - CWA Local 3178
August 1, 2005*

Dear City Attorney Dubbin,

We received your letter of July 19, 2005 concerning the August 1st City Commission meeting.

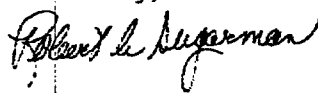
Local 3178 objects to the order of proceedings you have proposed. The city administration, and not Local 3178, should speak first.

The need for the City Commission to hold the August 1st meeting was caused by the city administration's rejection of the recommendations of the special magistrate. As the moving party that caused the city commission meeting to be held, the city administration should speak first. It was the city's objections that necessitated this city commission action and therefore the city must go first.

Murray H. Dubbin, City Attorney
Donald Papy, Chief Deputy City Attorney
Office of the City Attorney - City of Miami Beach, Florida
In re: Impasse Resolution hearing - CWA Local 3178
July 26, 2005
Page 2

Kindly reissue your letter indicating that the city administration will speak first during each portion of the proceedings.

Yours truly,



ROBERT A. SUGARMAN

RAS/jd

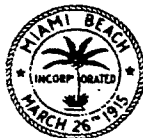
cc: James Crosland, Esquire (Via Facsimile No. (305) 374-5095)
CWAU Local 3178

OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A

MURRAY H. DUBBIN
City Attorney



Telephone: (305) 673-7470
Telecopy: (305) 673-7002

July 27, 2005

Via fax (305) 447-8115 and U.S. mail

Robert Sugarman, Esquire
Sugarman & Susskind
2801 Ponce De Leon Blvd., Ste. 750
Coral Gables, Florida 33134


Re: Impasse Resolution Hearing-CWA Local 3178
August 1, 2005

Dear Mr. Sugarman:

Thank you for letter of July 26, 2005, concerning the August 1st City Commission.

After consideration of your objection, I have concluded to proceed at the Commission meeting in the order stated in my letter of July 19, 2005.

Sincerely,


Murray H. Dubbin
City Attorney

MHD/ym

cc: James Crosland, Esquire



**COMMUNICATIONS WORKERS OF AMERICA
LOCAL 3178 - MIAMI BEACH
AFL-CIO - CLC**

7455 Collins Ave., Suite 212
Miami Beach, FL, 33141
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mckinnon@cwa3178.org

EXECUTIVE OFFICERS

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SECTION - 2

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SECTION - 3

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Chief Steward
SECTION - 4

ALEXANDER OTT
Chief Steward
SECTION - 5

WARREN GREEN
Chief Steward
SECTION - 6

VACANT
Chief Steward
SECTION - 7

June 29, 2005

Mayor David Dermer
& Members of the City Commission
1700 Convention Center Drive
Miami Beach, FL 33139

Dear Mayor and Commissioners:

The Public Employee Relations Act requires Local 3178 to furnish you with its recommendations for resolving the bargaining impasse between the City and our Union. We are required to do this because the City Manager, and not our Union, has rejected the recommendations of the Special Magistrate. The City Manager, in rejecting the recommendations of the Special Magistrate, has asked you to decide this bargaining impasse and he wishes to relitigate most of the issues that were so thoroughly addressed by the Special Magistrate.

We encourage you to accept the Special Magistrate's recommendations, we encourage you to resolve this impasse by adopting all of the Special Magistrate's recommendations in their entirety. This represents a well-crafted compromise which resolves a long-standing bargaining dispute between the City and Local 3178 and will go a long way in improving the morale of our employees.

When our bargaining reached an impasse, Local 3178 wanted to come to you directly, to the City Commission, to resolve the bargaining impasse. We did this because we believed the Mayor and City Commission to be fair and we trusted you "to do the right thing". However, in order to bypass the Special Magistrate process and go directly to the City Commission, both sides must agree. We agreed. The City Manager did not. Instead, he said that he wanted the advantage of the Special Magistrate's views on how to resolve the impasse. The City Manager wanted the expert advice of an impartial outsider. The Special Magistrate, who was selected jointly by both parties is an experienced arbitrator. He has been on PERC's Special Magistrate panel for over 20 years, he is an ordained Lutheran minister, he is a well-published author and he is a widely respected labor arbitrator. He is thoroughly familiar with the public sector work place. He was chosen jointly by both the City and the Union.

Because the City Manager insisted on a Special Magistrate proceeding and receiving his views, Local 3178 wholeheartedly and in good faith entered into the Special Magistrate proceeding. We thoroughly researched each of our points, made our best argument, presented our witnesses, and dozens of exhibits, and spent a considerable amount of our union members' money on explaining our views to the Special Magistrate.

The City did the same. It hired an experienced labor lawyer (the same one that represented the City in its 1993-94 Special Magistrate proceeding against our union), presented high city officials, including the finance director, parking director, assistant fire chief, and the chairman of the budget advisory committee, presented dozens of exhibits and economic projections, and also wholeheartedly participated in this proceeding.

After 7 days of hearing, and hundreds of hours by both sides to prepare for and presenting their cases, the Special Magistrate presented his recommendations. These are the recommendations that the City Manager said that he wanted and welcomed in resolving this dispute.

However, after receiving the recommendation, the City Manager, through his attorney, rejected most of the Special Magistrate's recommendations. He did so because the Special Magistrate decided several, but not all, issues in the union's favor. The Special Magistrate realized, as we have always told you, that the City's positions with regards to our bargaining unit were unfair, unwarranted, and in some cases unwise.

One reason the City Manager might have rejected the Special Magistrate's recommendations is because they say many of the same things that we have been telling you over the past two years. Many of his positions are unwise, unworkable, punitive, and just plain wrong. The City Manager said that he wanted the Special Magistrate's views and recommendations. He got them. However, when many of them were the same thing that the Union has been saying all these years, he now is rejecting them and complains that the Special Magistrate is "biased."

We did not receive everything that we wanted from the Special Magistrate. We believe that his recommendation, which was not a total victory for us, is a finely crafted, carefully considered, and wisely decided compromise that is fair to both parties and to the public.

Unfortunately, the City Manager apparently does not feel the same. Because he did not win most of his points, he rejected the Special Magistrate's hearing, slandering the Special Magistrate by claiming that he was bias and ruled in favor of the union. This is the very Special Magistrate that the City jointly selected.

We did not ask for a Special Magistrate proceeding. The City Manager did. We did not win all of our points before the Special Magistrate. Neither did the City. However, we are willing to accept, abide by, and follow all of the Special Magistrate's recommendations. The City is not.

We urge the City Commission not to relitigate, reconsider, and reopen every single issue that is covered in the City Manager's 62-page recommendation. The Special Magistrate has already done that job for you, as requested and insisted upon by the City Manager. The City Commission should not hold a second Special Magistrate proceeding or open each issue anew or attempt to disturb the finely crafted and well-balanced recommendation of the Special Magistrate. We urge the City Commission to accept, adopt and impose the Special Magistrate's recommendation in its entirety.

There is ample precedent for doing this. In 1993-94, when the City dire financial straits forced the City to request concessions the union members would not accept, another bargaining impasse resulted. That bargaining impasse went to a Special Magistrate who issued recommendations that were all in favor of the City. When the Special Magistrate's

June 30, 2005

recommendations were presented to the City Commission, the City Commission accepted the Special Magistrate's recommendation in its entirety. The sentiment of the City Commission at the time was that both parties had expended considerable amount of time, money, and energy for an objective, independent expert to review the labor situation and make recommendations to solve it fairly. The City Commission felt that it had no other choice but to accept them in their entirety.

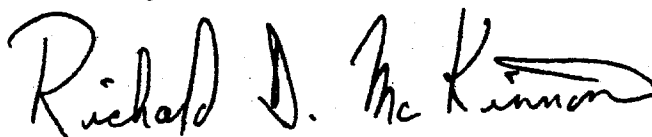
The principles that were used to justify the City Commission's decision in 1994 are the same that should govern the City Commission today. The Special Magistrate's recommendations may not be everything that the City hoped for. However, they should be accepted and adopted in their entirety. What was fair for the City in 1994, is now fair for the Union in 2005.

We hope that you will not open the decision, issue-by-issue, as urged by the City Manager. We request that you promptly schedule a meeting in July, preferably after July 18, 2005 and that one of the City Commissioners move to fully accept and adopt the Special Magistrate's recommendations, in their entirety. Local 3178 will have no other choice but to recognize these gestures as signs of true leadership and we will not be forgotten. The current class-action lawsuit against the City will also be promptly withdrawn, as suggested by the Special Magistrate, if the recommendations are fully accepted and adopted. The Special Magistrate had his finger right on the pulse when he said "He identifies with the frustration of the Union members who feel they have been compelled to make sacrifices since 1993 and have not been given relief." The opportunity to put to bed years of ill-feelings that have soured the relationship between Local 3178 and the City is finally upon you.

We trust your fairness and we trust your respect for the process. We do not feel the need to argue each point with you, because the best points are made by the Special Magistrate, who has already weighed and evaluated the competing arguments of the parties. The Special Magistrate best summed up the matter when he said "anyone who refuses to acknowledge the sacrifice of CWA members since 1993 is living on the wrong side of history."

We look forward to seeing you at the City Commission and to the City Commission and Mayor, hopefully unanimously, moving to accept and adopt the recommendations of the Special Magistrate which are our recommendations to you for finally resolving this long-standing dispute.

Sincerely



Richard D. McKinnon
President of CWA Local 3178

cc: Jorge M. Gonzalez, City Manager

CITY OF MIAMI BEACH
Office of the City Manager
Letter to Commission No. 166-2005



To: Mayor David Dermer and
Members of the City Commission

Date: June 24, 2005

From: Jorge M. Gonzalez
City Manager

A handwritten signature in black ink, appearing to read "J. Gonzalez".

Subject: CITY ADMINISTRATION RECOMMENDATION FOR IMPASSE WITH THE
COMMUNICATIONS WORKERS OF AMERICA (CWA) BARGAINING UNIT

The purpose of this LTC is to transmit to you the Administration's recommendation on the proposals which are the subject of the impasse proceedings with the Communications Workers of America (CWA) Union. You have already received under separate cover a copy of the Special Magistrate's report.

The Florida Statutes, Chapter 447, require that the City and Union respond to the Special Magistrate's recommendations within twenty (20) days of receiving his report unless his report is accepted in its entirety. The City's recommendation was sent to the Public Employee Relations Commission (PERC) on June 16, 2005 (**Exhibit A – City's response to PERC**). The Statute further requires that the City and Union submit to the Commission their recommendations to resolve the impasse. The Commission is then required to conduct a public hearing and make the final decision regarding the disputed impasse issues. A "cone of silence" is now in effect with the Commission regarding any impasse discussion for the City and the Union until such time the public hearing takes place. The issues regarding the term of agreement that may be imposed by the Commission is attached for your review (**Exhibit B – issues concerning term of agreement**).

The CWA proposal (after two years of bargaining) requests a \$7.1 million dollar per year incremental increase (new money) for their bargaining unit and due to the nature of their proposals would increase incrementally each year (**Exhibit C – CWA proposal cost summary**). This \$7.1 million dollar incremental increase represents costs associated for the CWA only and does not address other bargaining units in the same pension system. The pension proposals requested by the CWA would require increases over the next 20-30 years. The health insurance increase request will also continue incrementally and indefinitely, unless re-negotiated downward at some point in the future (which would be unlikely and difficult to do once a benefit is given). This type of incremental increase is not necessary for recruiting or retaining CWA employees who are already competitively paid (as confirmed by the Florida League of Cities salary survey comparators).

The proposal package recommended by the City meets the goals of ensuring fiscal responsibility, maintaining the ability to recruit the most qualified workforce, and retaining our current workforce by remaining at the top or near the top in every pay and benefit category. The CWA has stated and agreed during the impasse hearing that for similar positions around the state of Florida, the CWA employees at the City of Miami Beach have unparalleled wages and benefits. Despite this admission, the CWA requested equal pay increases and benefits at all levels with the Police and Fire Unions. The City rejects this argument based on the fact that the Police and Fire Unions are not a comparable group for the CWA which is composed

of clerical positions, trades workers, lifeguards, parking and code employees, etc. Police and Fire Departments are paid at a different level than the general employees across the country due to the inherent dangers built into their jobs.

Even without a new contract in place since October 1, 2003, the CWA bargaining unit has received lucrative "automatic" increases due to the nature of the contract (as with all collective bargaining agreements). The following are several examples of these increases: (1) when health insurance rates increase for the City each year, the City "automatically" increases its contribution to the CWA; (2) CWA employees continue to receive their "step increases" each year of either 3% or 4% (until they reach the maximum step in their classification); (3) CWA employees continue to receive longevity bonuses (up to an additional 11% of their salary), and these longevity payments increase at set intervals based on their length of employment; (4) the City continues to contribute 10% to the CWA employees in the 401A retirement system and the City made significant required contributions to the General Employees Pension System (\$1.8 million dollars on 10/1/03, \$3.4 million on 10/1/04 and will make a contribution of \$3.8 million on 10/1/05) (**Exhibit D – CWA automatic increases**).

In total, the City will pay "automatic increases" of \$3.9 million to the CWA bargaining unit from October 1, 2003 to September 30, 2006. The "automatic increases" are in addition to the CWA proposed incremental increases for a three year cost of living adjustment (COLA) increase and the following: (1) various enhanced pension benefits; (2) increased health insurance benefits; (3) a 3,000 hour union time bank; (4) increased cleaning allowance; (5) increased time for union conventions; (6) increased costs associated with the promotional process; (7) new accreditation pay; (8) new certification pay; (9) increased four (4) day work weeks for lifeguards to a year round schedule; (10) creation of a four (4) day work week schedule year round for pool guards; and (11) increased EMT supplement from 5% to 9% which amount to \$7.1 million. This equates to a \$16,745 incremental increase per employee in the CWA bargaining unit, which is significantly greater than the contracts agreed upon by the POLICE (FOP), FIRE (IAFF), GSA and AFSCME unions (**Exhibit E – CWA proposal cost compared to other completed Union contracts**). This \$7.1 million (new money) is in addition to the \$3.9 million "automatic increases." This brings the CWA total cost of the three year package to over \$11 million in salary and benefits, which equates to an increase of approximately \$26,000 per bargaining unit employee; or a 68% increase (in salary and benefits) over the 2004 average base wage.

Significantly, just as the "automatic increases" continue through the end of fiscal year 2006, the proposed benefit enhancements will also continue (such as the proposed pension enhancements for the next 20-30 years).

The City's Budget Advisory Committee (BAC) and Chief Financial Officer (CFO) have advised and warned that the CWA's requested **\$7.1 million dollar per year incremental increase in wages will affect the long term sustainability of the City**, which is highly dependent upon tourism and resort taxes, and is vulnerable to unforeseen events such as hurricanes and other catastrophic events. This proposal could affect funding priorities such as the long term reserves of the City and several other issues, such as maintaining a prudent financial reserve and being able to address citizen priorities to provide public safety, sanitation, recreational programming and improved infrastructure.

The next step in the negotiation process is for the City Commission to make a final determination as to what additional pay and benefits, if any, should be added to the already lucrative CWA contract. Below is an outline of the disputed issues:

1. Wage Proposal/Term of Agreement

CITY OFFER = \$1,306,076 (3 year total)

Year 03/04 = 0

Year 04/05 = 1.5% lump sum (not pensionable) + an additional 3%

Year 05/06 = 3.5%

Although the CWA has been negotiating with the City for the past two years, and was offered the same wage proposal as the Police and Fire (3%, 3%, 3.5%) over a year ago, they rejected it. The Special Magistrate recognized the fact that dragging out the negotiation process should not be rewarded. The City's four other unions negotiated their contracts over the past year, in a timely fashion and in good faith.

2. Pension

The CWA members belong to either the General Employees Retirement System (GERS) or the 401A retirement plan. The GERS is considered to have better benefits than our current Unclassified Pension System and the 401A plan. In fact some employees have turned down promotions to Unclassified jobs because they did not want to change their pension system. In addition, the CWA has requested that those employees in the 401A plan be allowed a second opportunity to move from the 401A plan to the GERS system. The GERS pension system was divided into a two-tier plan on February 21, 1994. Although overtime is not pensionable for the Tier B employees, it is 100% pensionable for the Tier A employees (**Exhibit F – pension comparison**). Therefore, in calculating the pension, the two highest years of earnings, including 100% of overtime, is the determining factor used in calculating the final average earnings for the remainder of their life. The City does not agree that these additional overtime earnings should represent the regular pensionable earnings of the employee.

The City has offered the following three items on pension:

- a) Allow promoted Classified employees to stay in the Classified pension system;
- b) Allow employees currently in the 401A plan to stop contributions to the 401A and start in the GERS pension system (i.e. a second one-time irrevocable decision) – CITY PROPOSAL = \$35,791/year, incrementally increasing over 20-30 years.
- c) No pensionable overtime for Tier A, in order to equalize the two tiers – CITY PROPOSAL (savings) = (\$660,396)

The CWA proposed pension enhancements include the addition of a Deferred Retirement Option Plan (DROP); enhancing service connected and non-service connected disability benefits; add two years to each member's credited service for purposes of normal retirement benefits (member would pay 10% of salary each year); allow employees in the 401A plan to move into the pension system with their creditable service time and account balances; increase the benefits for all Tier B employees (62% of employees in CWA are in Tier B) to the level of Tier A employees; implement a "Rule of 70" (allow normal retirement at age 50 and ten years of service or when the total of age plus service equals 70); and increase post-retirement survivor benefits from 50% to 100%.

In addition to these pension enhancements, it is significant to note that there is pending litigation (the Richard McKinnon lawsuit) against the City regarding pension issues. This class lawsuit seeks to have the ordinances that increased the employee pension contributions from

8% to 10% declared invalid. This would reduce the employee contribution back to 8%. The lawsuit further demands that all employee pension contributions in excess of 8% that have been made since 1997 be refunded. The class action is composed of all participants in the General Employees Retirement System who made or are making a contribution of 10%. Because of the pending litigation, the City should not consider enhancing pension benefits.

These enhancements as proposed by the CWA will cost the City \$3.1 million dollars alone. If these pension enhancements were applied to the remainder of the City employees (which would most certainly be requested by our other bargaining units), as cost out by the Pension's actuary, these same enhancements City-wide will cost \$7.9 million in the first year alone.

It is significant to note that **all pension enhancements, including those in the CWA proposals continue to incrementally increase in cost and reoccur over a 20-30 year period (the life of the pension participant).**

3. Health Insurance

Although the City added two additional health plan choices in 2001, the CWA has refused to allow their membership to choose from these two plans which are less costly (and optional) to the employees. While the City contributes 50% to the three original plans, the City pays 75% toward the employee's cost for the two newer optional plans. These optional plans are more in line with the benefits generally provided to employees. When offered to the AFSMCE bargaining unit, 25% of employees switched to these optional plans.

The City has proposed the following regarding health insurance:

- a) To allow flexible language for the City to include the two optional plans in the health insurance offerings.
- b) Ask employees to make a one time election to continue their retiree health insurance when they retire from the City. (The City contributes 50% towards retiree health insurance for the lifetime of the employee and their family).
- c) Require employees in the 401A plan to work for 10 years (as is currently required in the pension system) before becoming eligible for retiree health insurance. There is currently no vesting requirement at all for 401A participants.

The CWA proposal to form their own Health Trust increases the cost to the City for the CWA Health Trust, increases the cost to the City and all other employees that are "left" in the Health plan, and increases the cost the City would pay to the Police and Fire Trusts, since their payment is based on a formula which would increase if the City were to agree to the CWA demand. In addition, the CWA proposal would adversely affect the City's ability to obtain group health coverage due to the number of CWA retirees which would not be moved into the CWA Health Trust. **The CWA proposal represents an increased cost of \$1,234,196 per year, which would only continue to increase with rising Health Insurance rates.**

4. Election of Remedies

As provided in the Florida Statutes and in all five of the City's collective bargaining agreements, employees may appeal any disciplinary action or contractual issues including the terms of their wages, hours and working conditions through a grievance and arbitration process outlined in each contract. This process consists of four steps. The first three steps are heard within the City and the last step by an independent professional arbitrator experienced in labor issues and mutually selected by the parties from a list provided by the U.S. Department of Labor's Federal Mediation and Conciliation Service. In the past, the City

has provided for a secondary appeal process for limited forms of discipline through the City's Personnel Board, which is required to have only one member with any type of human resources experience. All of the other Unions have agreed to discontinue use of the Personnel Board for disciplinary appeals. The City proposes that CWA utilize the grievance/arbitration process exclusively for disciplinary appeals.

5. Union Time Bank/Union Conventions

The City proposes the Union adopt the use of a 1200 hour time bank paid for by the City for all Union business (except negotiations and Labor-Management meetings which is additional time proposed to be paid by the City). Currently the CWA is allowed to have 17 Union stewards to conduct union business on an unlimited basis on City time. The City proposes no change to the number of stewards, but needs to have some control over the amount of time being spent. The Police Department utilizes a detached president, who works full time on union business (which the CWA was offered and rejected), and the Fire Department utilizes a 1500 hour time bank. Although the CWA claims they have more "work sites" than the FOP and IAFF, the issues in the Police and Fire Departments are far more complex than those of the CWA, even though the CWA has more members and "work sites." Therefore, on a comparative basis, the suggested 1,200 hours is fair. The CWA proposed a 3,000 hour time bank which is *not* inclusive of all union time, including City paid time for "lunches" with their employees.

6. Cleaning Allowance

The City pays approximately \$72,480 per year for a cleaning allowance to CWA members. This allowance was initiated several years ago when uniforms required dry cleaning which is not the case today. All CWA uniforms are wash and wear, and paying \$40 per month to clean City uniforms, which are machine washable, is no longer justifiable. Therefore, the City proposes that this "cleaning allowance" be eliminated. The CWA proposes not only to continue the cleaning allowance, but to increase the amount to \$50 per month and make an additional 123 employees eligible for this allowance.

7. Promotions

The City recommends "status quo" as to the current process utilized for promotions. The current process, which includes a weighted interview and written test for most clerical positions, is effective and has been in place for many years. (The interview methodology considers the importance of the interview question along with the quality of an applicant's answer). The CWA is proposing a similar testing process used to hire entry level police officers and firefighters. The CWA proposed testing process is extremely costly and unnecessary since tests required for the classifications covered in this bargaining unit do not require the extensive assessments necessary to employ police officers or firefighters. The CWA also proposed that the City implement a rule that the interview portion of the promotional process be limited to the top three employees who scored the highest on a written exam. Such a directive would unnecessarily impede the City's ability and management right to select the best employees for promotion and may raise Equal Employment Opportunity Commission (EEOC) concerns. The CWA proposal would cost the City approximately \$172,000, plus additional staffing to implement.

8. Sick/Vacation Leave Accrual and payment at termination

The City recommends "status quo" as to the current accruals, which is the same for all civilian bargaining units. The current policy allows employees to accrue 360 hours of vacation time before it "must be used" each year and 50% (of up to a maximum of 600 hours) for sick time.

Unused vacation time is paid at 100% at the time of termination. CWA is requesting an additional 100 hours be allowed to accrue for vacation increasing the amount to 460 hours before it "must be used". This could also increase their payout at termination by 100 hours should they have accumulated this time.

9. Temporary Employees

The City recommends that the current restriction of hiring only thirty (30) temporary employees be removed from the contract. Temporary employees are not part of the bargaining unit, nor can the CWA bargain for them. They receive pay for hours worked at the starting rate of pay for the classification, but do not receive benefits. Temporary employees are necessary to supplement the work force for limited periods of time in some Departments. Temporary lifeguards are hired every year during daylight savings time when more lifeguards are needed; however, they are not needed all year long, and it would be costly and unnecessary to retain them permanently. The City would like to add additional lifeguard stands during peak times of the year, and would only need to "staff" them during that temporary time. In addition, the Parking Department is considering temporary supplements to the Parking Enforcement workforce during special events taking place in the City. Once again, although vitally necessary at times, these employees are not permanently needed. The CWA objects to the use of these temporary employees, and requests that the City hire additional permanent employees which would supplement their bargaining unit. It is important to note that the temporaries are not hired in lieu of permanent employees; are not hired at the detriment of the bargaining unit; and in no case have caused any "layoff" situation for the CWA.

10. Random Drug Testing

The City and the CWA have agreed that random drug testing should be instituted for safety sensitive classifications such as Communications Operators, Complaint Operators, Crime Scene Technicians, Dispatchers, Lifeguards, Pool Guards, Property Evidence Technicians and Public Safety Specialists. CWA is the only bargaining unit with no form of random testing. However, the CWA proposes a "once a year" drug testing program, whereby once you are tested, you are not tested again during that year. The City proposes a true random testing program with specific language on how to handle employees who test positive.

11. Accreditation and Certification Pay

The City rejects the CWA proposal to pay an "accreditation pay" for those CWA employees who work in the Police and Fire Departments, Ocean Rescue Division, Recreation Department, and any other Departments which "might possibly" attain accreditation anytime in the future. Although several Departments have attained different levels and types of "accreditation" certifications, there is no requirement or need for the City to provide an "accreditation bonus" to every employee when the Department completes an accreditation process. The CWA has proposed that their members, who work in the Police and Fire Departments, receive an accreditation bonus, solely because it was negotiated with the Police and Fire Unions. The Ocean Rescue Division has not received any certification. Although the Recreation Department has received a "certification," no employees in the Recreation Department, which include GSA, AFSCME, CWA and "Other" employees receive any bonus for this certificate. The City does not propose artificially enhancing this already well paid unit with these unnecessary bonuses. In addition, the CWA is requesting a "certification pay" for those employees who work in the Code Compliance Department, based on them attaining a Florida Association of Code Enforcement (FACE) level III certification which is not needed for these employees to successfully perform their job functions. There is no justification for these additional benefits, and it does not exist in any other municipality for employees in the CWA

classifications in Dade or Broward Counties, nor is this requested pay increase necessary to recruit or retain employees in these jobs. The CWA proposal would cost the City an additional \$313,000/year and would increase if any Department attains any type of accreditation certificate in the future.

12. Lifeguard and Pool Guard Scheduling

Per the CWA contract, the Lifeguards currently work four days per week for nine months out of the year. (Pool guards work five days per week year-round). The CWA is requesting a mandatory four day work week all year for both lifeguards and pool guards. The City proposes management flexibility for the work schedule based on need, given the nature of our TOURISM industry, special events taking place and residential needs. There are times when twelve, ten or eight hour work days would be appropriate to accomplish the most effective staffing necessary for safety and well-being of our residents and visitors. The CWA contract already has provisions that require notice be given to employees should their schedule change. The pools are open for scheduled hours only at our facilities around the City, and there is no justification or need to be "locked in" to a twelve hour work day year round for our pool guards. The CWA proposal for these "lock-in" schedules would cost the City an additional \$460,000 per year for staffing. This suggestion is an unnecessary impediment to the City's exercise of its management right to determine appropriate shifts and coverage, and it would have a negative impact on operational efficiencies, as well as an increased cost due to the additional staffing required to cover the shifts. The City position would allow a greater average of beach hours which may be possible with flexibility – either by utilizing staggered eight (8) hour shifts or possibly twelve (12) hour shifts.

13. OSHA/Asbestos Removal Language

The City recommends "status quo" to this issue. In fact, the City is already doing all inspections and reports required by law and there are no legitimate asbestos issues that even need to be addressed.

14. Tuition Reimbursement Language

The City recommends "status quo" to this language, as this policy is standard throughout all other contracts in the City.

15. Triple time and one-half pay

Currently, in the CWA contract, if an employee works on a holiday they get paid at time and one half plus the holiday at regular pay which equals two and one half pay. However, if they are called in to work the holiday on their day off, this pay becomes three and one half times their regular pay. The City considers this benefit excessively bloated and unnecessary, and recommends that in no case should the employee be paid more than two and one half times their regular pay whether they are called in or not, as is stated in the AFSCME agreement. The CWA proposed no change to this benefit.

16. Reporting Pay Language

The City recommends that this article be eliminated from the contract, because it is obsolete, unnecessary language that has never been utilized. This language requires that employees who report to work as scheduled will be guaranteed eight (8) hours of work or eight (8) hours of pay.

17. Pay for Performance

The City recommends that the minimum score required to receive a step increase in CWA (which is either 3% or 4% depending upon the classification) be changed from a score of 50 out of a 100 to a score of 75 out of a 100. In the other civilian bargaining units, a score of 90 is required for a 4% increase, a score of at least 80 is required for a 3% increase, and a score of at least 60 is required for a 2% increase (**Exhibit G – comparison of other civilian bargaining unit pay increases**). The City proposal requests a more equitable process within all of our civilian units.

18. Contracting out

The City recommends new language in this article. The maintenance of the current language requires the City to perform several functions even if the City "contemplates" contracting out. The current language states that the City will "meet and discuss with the representatives of the Union both the decision to contract and the effect of such contract upon members of the Bargaining Unit. Such discussions will include a review of any cost analysis done by the City and will occur prior to the execution of such a contract." The City's proposal would require the City to meet with the Union when such a contract would result in a layoff of any bargaining unit employee. The current language causes operational inefficiencies, unnecessarily broad and is more than the law requires in part because the contract already provides ample protection for employees who might be laid off in the event of the use of an outside contractor. Moreover, Florida law does require a public employer to bargain with a union regarding the decision to sub-contact services to the public.

19. EMT Lifeguard pay

The CWA lifeguards and pool guards presently enjoy a 5% supplement to their pay when they receive an EMT certification. The City recommends status quo to this benefit. The CWA is requesting an increase of this supplement from 5% to 9%, which would cost the City an additional \$76,000 per year, and would increase as more guards receive their EMT certifications. The City rejects this proposed increase.

20. Uniforms

The City has the following three proposals regarding uniforms:

- a) Eliminate the word "cotton" from the contract language. This will provide for a greater selection of uniforms and access to a range of modern fabrics and materials in a cost effective manner;
- b) Add sponsorship language which allows the City to consider opportunities for vendors to provide uniforms. This provides exposure for the City while defraying uniforms costs;
- c) Reduce the annual number of uniforms issued from six (6) to five (5) for all bargaining unit employees that are issued City uniforms. The City does not require employees to "turn in" uniforms each year, therefore a majority of employees have several years worth of uniforms available. Old and worn uniforms are replaced on a regular basis. This replacement is over and above the standard issue. This reduction was already negotiated in the GSA contract and provides a cost savings to the City.

In summary, for over two years, the City has attempted to negotiate a fair and equitable contract with the CWA. Although the CWA was offered similar wage and benefit packages which were accepted by the City's four other bargaining units, the CWA has continually rejected all City offers. Despite the fact that the Union leadership has openly agreed that they have among the best wage and benefit packages for all comparable bargaining units within

and outside of the City, after two years, the CWA continues their demand for unreasonable annual increases in wages and benefits coupled with language that restricts the City's ability to operate efficiently. **(Exhibit H – June 23, 2005 - Article - Budget Advisory Committee)**. The CWA's many demands, which cost require the expenditure of \$7.1 million new dollars, in addition to the 3.9 million in "automatic increases" (explained above), will force the City into long term fixed expenses that will affect the long term sustainability of the City. The City will then surely face demands by all other Unions for these same exorbitant increases. The Administration has offered a fair and equitable package to CWA, whom already enjoy the benefits of an outstanding collective bargaining agreement. The City's proposal while fiscally prudent, also maintains excellent wage and working conditions for all employees in the CWA bargaining unit. **(Exhibit I – City's proposal summary and contract language)**.

If you have any questions or need any additional information, please feel free to contact me.

Thank you.

Attachments: Letter from the City to (PERC) - Exhibit A
Issues concerning term of agreement – Exhibit B
CWA Proposal Cost summary - Exhibit C
CWA "automatic" increases – Exhibit D
CWA Proposal Cost comparison to other Unions – Exhibit E
Pension comparison – Exhibit F
Performance appraisal increase comparison – Exhibit G
June 23, 2005 - Article - Budget Advisory Committee – Exhibit H
City proposal summary and contract language – Exhibit I

JMGLG\mr

cc: Murray Dubbin, City Attorney
Donald Papy, Chief Deputy City Attorney
Tim Hemstreet, Assistant City Manager
Robert Middaugh, Assistant City Manager
Patricia Walker, Chief Financial Officer
Kathie Brooks, Director, Office of Budget and Performance Improvement
Ramiro Inguanzo, Chief of Staff
Linda Gonzalez, Labor Relations Director
Robert Sugarman, CWA Attorney
Budget Advisory Committee Members

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EXHIBIT A

Fort Lauderdale
Jacksonville
Miami
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Tampa
Washington, DC
West Palm Beach

One Southeast Third Avenue
SunTrust International Center
28th Floor
Miami, Florida 33131-1714
www.akerman.com
305 374 5600 tel 305 374 5095 fax

June 16, 2005

VIA FACSIMILE

Honorable June Farrell
Public Employees Relations Commission
4050 Esplanade Way
Tallahassee, Florida 32399-0950

Re: PERC Case No. SM-2004-037
City of Miami Beach's Letter Concerning Special Magistrate's Recommendations

Dear Ms. Farrell:

As an initial matter, it should first be noted that the cost of the CWA demands (and the Special Magistrate's recommendations) greatly exceeds what is fiscally prudent and completely disregards the interest of the City's taxpayers. These demands also present unacceptable operational and efficiency concerns. In addition, the Special Magistrate's recommendations were blatantly slanted in favor of the union with respect to many of the City's management rights. In some cases, the recommendations ignored or simply failed to mention or recognize the City's positions and explanations. Finally, his report contained a number of inaccuracies and inconsistent statements.

More specifically, the City provides the following responses to each of the recommendations made by the Special Magistrate:

TERM OF AGREEMENT: While the City would agree with the Special Magistrate's concept that the parties may prefer a 3 year contract over a 1 year contract, it is important to note that pursuant to Chapter 447 of Florida Statutes, the City Commission is legally entitled to impose a contract for only the first fiscal year at issue, which is the fiscal year that covered the period October 1, 2003 through September 30, 2004.

WAGES: While the City agrees with the concept suggested by the Special Magistrate that wages should not be paid in a retroactive manner, the City rejects the proposed amount of wages in the first, second and third years of this agreement because the amounts are higher than

the City believes to be appropriate. In addition, the Special Magistrate refused to consider relevant comparative (and statutorily required) wage and benefits data provided by the City.

PENSION: The City accepts the Special Magistrate's recommendation that employees who are promoted from the CWA into a position that is outside the General Employee's Retirement Plan could elect to remain in that Plan. However, the City rejects all remaining recommendations made by the Special Magistrate regarding the other proposed pension changes because the cost of those proposed pension changes is excessive and unnecessary.

HEALTH INSURANCE: The City rejects the recommendation because the creation of a separate health trust for the CWA will have an adverse financial impact on both the City and the remaining participants in the City's healthcare plans.

ELECTION OF REMEDIES: The City rejects the Special Magistrate's recommendation, in part because it would leave the CWA as the only bargaining unit whose members could take disciplinary appeals to the Personnel Board, which would unnecessarily create administrative inefficiencies. In addition, unlike the arbitration process, which is a professional experienced arbitrator, only one member of the board is required to have any human resources experience.

UNION TIME BANK/CONVENTIONS: The City rejects the Special Magistrate's recommendation of the status quo in part because the recommendation completely ignored the City's proposal on this issue, which would have allowed for more administrative controls and accountability on the use of Union time for any reason.

CLEANING ALLOWANCES AND UNIFORMS: The City rejects the Special Magistrate's recommendation to keep the status quo for cleaning allowance and for uniforms because those recommendations are completely inconsistent with the City's position and will result in unnecessary additional cost to the City. The City also rejects the Special Magistrate's recommendation regarding payment to the Union's general funds related to the IZOD contract in part because no such funds are anticipated. Even if there were any, such funds should be paid only to the City's taxpayers. Such funds, if any ever exist, should be used by the City to better serve the public and not to enrich the Union's general fund. In addition, once again, the Special Magistrate's recommendation completely ignored the City's position on the contract language related to sponsorship, reduction in number of uniforms issued accordingly, and the "cotton" requirement. The City accepts the Special Magistrate's recommendation that no dress uniform should be provided to any member of this bargaining unit.

PROMOTION: The City accepts the Special Magistrate's rejection of the Union proposal regarding use of promotional exams, but the City rejects the Special Magistrate's recommendation that the City develop a rule that the oral exam should be limited to the three employees who scored the highest on a written exam because the City believes that such a rule would unnecessarily impede the City's ability and management right to select the best employees.

for promotion. Moreover, the Special Magistrate ignored the City's concerns regarding potential EEOC issues.

SICK/VACATION LEAVE ACCRUALS: The City accepts the Special Magistrate's recommendation that the status quo should be maintained on this issue.

TEMPORARY EMPLOYEES: The City rejects the Special Magistrate's recommendation that the status quo of thirty (30) temporary employees be maintained while at the same time creating a rule which would limit the City's ability to use temporary employees for more than six (6) months because this will unnecessarily restrict the City's ability to use temporary employees.

RANDOM DRUG TESTING: The City accepts the Special Magistrate's acknowledgement that the Union and the City have agreed to the list of positions within the bargaining unit that should be subject to a random drug testing program. However, because the Special Magistrate did not identify which one of the two sets of contract language proposed by the City and Union would be used for the rest of this drug testing article, the City must reject the Special Magistrate's suggestion that the parties are in full agreement on this issue.

ACCREDITATION PAY AND CERTIFICATION PAY: The City accepts the Special Magistrate's recommendation that no accreditation pay should be paid to any bargaining unit members. However, the City's rejects the Special Magistrate's recommendation that a \$50.00 certification pay should be paid to Code Compliance Officer and Administrators who maintain certain certifications, as the City does not believe that such certification pays are warranted in these circumstances.

TEN (10) HOUR SHIFT FOR LIFEGUARDS AND POOL GUARDS: The City rejects the Special Magistrate's recommendations that ten (10) hour shifts be implemented for a full year for both life guards and pool guards. This suggestion is an unnecessary impediment to the City's exercise of its management right to determine appropriate shifts and coverage, and it would have a negative impact on operational efficiencies, as well as an increased cost due to the additional staffing required to cover the shifts.

OSHA/ASBESTOS REMOVAL PROCEDURES: The City would accept the Special Magistrate's suggestion that none of the OSHA requirements should be incorporated into the collective bargaining agreement. However, the City rejects the Special Magistrate's suggestion that the City should adopt some type of a practice inspecting each building and then write a note to employees to insure them that each building is asbestos free. In fact, the City is already doing all inspections and reports required by law.

TUITION REIMBURSEMENT: The City rejects the Special Magistrate's recommendation because although it states that the language should remain status quo in the contract, his description of the status quo is inaccurate.

TRIPLE TIME AND ONE-HALF PAY: The City rejects the Special Magistrate's recommendation that the Triple time and one-half pay benefit should be kept for certain employees who work on holidays, because such a benefit is excessively bloated and unnecessary.

REPORTING PAY: The City rejects the recommendation to keep this language because it is obsolete and unnecessary for this agreement.

PAY FOR PERFORMANCE: The City rejects the status quo recommendation because it believes that the employees in this bargaining unit should be in that Pay for Performance system like the GSA and AFSCME bargaining unit members, and many other non-union City employees.

CONTRACTING OUT: The City rejects the status quo suggestion on this issue in part because the maintenance of that language could cause operational inefficiencies. In addition, the present language is unnecessarily broad and more than the law requires in part because the contract already provides ample protection for employees who might be laid off in the event of the use of an outside contractor.

EMT LIFEGUARD PAY: The City accepts the recommendation that the status quo (the 5% EMT pay supplement) should be maintained.

Very truly yours,

AKERMAN SENTERFITT


James C. Crosland

cc: Mr. Jorge Gonzalez, City Manager
Ms. Linda Gonzalez, Labor Relations Director
Robert S. Sugarman, Esquire

EXHIBIT B

The issues regarding the terms of the contract are somewhat complex.

The Union's position is that the Commission may resolve the various impasse issues for three (3) years, i.e., for fiscal years 03-04, 04-05 and 05-06. Thereafter, should the bargaining unit employees fail to ratify the three year proposed agreement, only the terms contained in the first fiscal year (03-04) would go into effect.

The City's position is that the Commission may rule on the three years noted above, and impose terms only for the first fiscal year (03-04), should the employees fail to ratify the three (3) year package, as the union contends, or may, in its discretion, resolve impasse items only for the first fiscal year (03-04). These issues will no doubt be discussed further at the impasse hearing.

EXHIBIT

B

EXHIBIT C

CWA Proposal

	CWA proposal costs			
	Year 1 03/04	Year 2 04/05	Year 3 05/06	
Base Wage = YTD 2003 (Base wage without temps)	3.0%	3.0%	3.5%	
Impasse Item				
1. Term of Agreement				
2. Wages	\$483,434	\$497,937	\$598,354	\$1,579,725
3. Pension*				
*Recurring cost for 20-30 years				
Net increase: Rule of 70, Tier B benefits to Tier A, Drop, survivor ship benefits from 50% to 100%, disability benefit to 75% of earnings, and non-duty to 35%, add 2 years to each members for credited service, bring in all 401A employees with their account balances (18.45%) CWA and (18.27%) All GE			\$3,179,666	\$3,179,666
4. a) Health Insurance			\$739,740	\$739,740
b) Increases to cost for other City employees for Health Plan			\$414,018	\$414,018
c) Increases to the Trust plan due to increases in overall City plan			\$80,438	\$80,438
5. Election of Remedies			\$1,234,196	\$1,234,196
6. Union Time Bank			\$38,603	\$38,603
7. Cleaning Allowance (new proposal by Union 3/16)			\$91,920	\$91,920
8. Union Conventions (2 conventions)			\$1,715	\$1,715
9. Promotions			\$172,000	\$172,000
10. Increase sick/vacation leave accrual (liability only)				
11. Sick time sell back (withdrawn 3/16)				
12. Temporary Employees				
13. Random Drug Testing				
14. Accreditation Pay			\$286,000	\$286,000
Certification Pay			\$27,300	\$27,300
15. Lifeguard Scheduling			\$230,099	\$230,099
Pool Guard Scheduling			\$232,370	\$232,370
16. OSHA/Asbestos Standard Removal procedures language				
17. Labor Management Meetings				
18. Tuition Reimbursement Language				
19. Overtime (3.5 times) pay for call-in on day off				
20. Reporting Pay language				
21. Reimbursement for Hats				
22. Pay for Performance				
Impasse Item				
23. Contracting out				
24. EMT Lifeguard pay (5% to 9%)			\$76,634	\$76,634
25. Uniforms				
Total:	\$483,434	\$497,937	\$6,168,857	\$7,150,228

EXHIBIT

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EXHIBIT D

Automatic Increases over previous year				
Items		FY 03/04 and 04/05 Increases already paid	Note	10/1/05 est.
Health Insurance		\$365,864		\$151,398
Step Increases		\$663,627		\$304,458
Longevity Pay		\$99,066		\$37,119
Incentives		\$72,876		\$7,229
401 automatics		\$32,400		\$30,095
Pension Contributions		\$1,997,688	paid 10/1/03 and 10/1/04	\$197,064
Total		\$3,231,521		\$727,363
427 CWA employees		\$7,568		\$1,703
		Increase/employee		Increase/employee
				Total Increase/employee (3 years)
				\$9,271
				\$3,958,884 Total CWA
Total City Pension contribution	Dollars			
10/1/2002	\$0			
10/1/2003	\$1,806,367			
10/1/2004	\$3,466,378			
10/1/2005	\$3,825,990			

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EXHIBIT

D

EXHIBIT E

CWA Proposal Cost

(compared to AFSCME/FOP/IAFF/GSA)

	Year 1 FY 03-04	Year 2 FY 04-05	Year 3 FY 05-06	Total	# employees	Cost per employee
CWA proposal	\$483,434	\$497,937	\$6,168,857	\$7,150,228	427	\$16,745*
FOP contract	\$614,642	\$800,352	\$1,068,640	\$2,483,635 \$800,000 (health) \$1,683,635	351	\$4,796 (w/ concession)
IAFF contract	\$717,721	\$787,096	\$1,050,979	\$2,555,796 \$550,000 (health) \$2,005,796	202	\$9,929 (w/ concession)
GSA contract	\$105,759	\$107,519	\$121,024	\$334,302	54	\$6,190
GSA contract w/ re-opener clause	\$119,843	\$122,378	\$151,631	\$393,852	54	\$7,294
AFSCME contract	\$264,297	\$293,016	\$347,643	\$904,956	292	\$3,099

*Pension proposal costs are recurring over a 20-30 year period

EXHIBIT F

Comparison of Miami Beach Pension Plans

	Police & Fire	Classified Bifurcation Dates AFSCME 4/30/93 CWA 2/21/94 OTHERS 8/1/93 GSA 8/1/93	Unclassified Bifurcation Date 10/18/92	401 (A)
Retirement Age	Rule of 70 or age 50 with DROP plan	Tier A - 50 Tier B - 60	Tier A - 50 Tier B - 60	55
Vesting	10 years	Tier A - 5 years. (any yrs. At age 62) Tier B - 10 years step vesting - 10 %/yr	Tier A - 5 years Tier B - 10 years cliff vesting - 10 yrs to vest	Immediate
Maximum pension Amount	90%	Tier A - 90% Tier B - 80%	Tier A - 80% Tier B - 80%	Contributions and Investment returns (no guarantee)
Pensionable Overtime	Overtime not to exceed 70% of max pay for next highest classification	Tier A - 100% Tier B - 0%	0%	N/A
Retirement COLA	2.5% compounded	2.5% compounded	Tier A - 1.5% compounded Tier B - 1.5% simple	N/A
Service Connected Disability	85% of current extended salary or accrued benefit if higher	Tier A - 75% of FAME or accrued benefit if higher Tier B - 60% of FAME or accrued benefit if higher	Tier A - 50% of FAME or accrued benefit if higher Tier B - 60% of FAME or accrued benefit if higher	66 2/3% of salary to a maximum monthly benefit of \$5000 (max covered salary of \$90,000(per 1992 ordinance as it applies to the 401)

EXHIBIT

F

Page 1 of 2

CITY OF MIAMI BEACH RETIREMENT SYSTEMS

Differences Between Tier A And Tier B Benefits

	Tier A	Tier B
General Employees System		
1. Pensionable Compensation	Total Pay	Basic Pay
2. FAME	2 year average	3 year average
3. Multiplier	3% for first 15 years, then 4%; cap of 90%	3% for all years; cap of 80%
4. Normal Retirement Date	Age 50 with 5 years of service	Age 60 with 10 years of service
5. Service Connected Disability	75% of FAME	60% of FAME
6. 100% Vesting	5 years	10 years
Unclassified System		
1. Pensionable Compensation	Base Pay	Base Pay
2. FAME	1 year average	3 year average
3. Multiplier	4% to 10/1/92, then 3%; cap of 80%	3% for all years; cap of 80%
4. Normal Retirement Date	Age 50 with 5 years of service	Age 60 with 10 years of service
5. Service Connected Disability	50% of FAME minimum	60% of FAME minimum
6. Non-Service Disability	25% of FAME minimum	35% of FAME minimum
7. 100% Vesting	5 years	10 years

EXHIBIT

F

Tables

Page 2 of 2

EXHIBIT G

Performance Appraisal increase comparison by civilian bargaining unit

Union	Increase Amount	P.A. Score
CWA (Steps)	3 or 4%	50 or above
AFSCME/GSA	4%	90 or above
	3%	89 - 80
	2%	79 - 60

EXHIBIT

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G

EXHIBIT H

Prioritizing Needs

Budget Advisory Committee Discusses Goals and City Employee Salary Demands

"Even if we're swimming in money now, five years from now we might be swimming in compost..." — Marc Jacobson, Budget Advisory Committee

By Omar Sommereyns
Staff Writer

Preparations for the upcoming 2005-06 Miami Beach budget and the contentious negotiations between the city manager and a municipal workers union over wages and benefits negotiations were the subjects of last Tuesday's Budget Advisory Committee.

"We're about to look at the new budget," said Committee Chairperson Jeryl "Deede" Weithorn, "so I want this committee to be aware of the city's priorities."

Those so-called priorities are bullet-pointed statements culled from responses to the \$100,000 Hay Group surveys (with input from Beach residents, businesses and community groups) and summarized in a document approved by the Miami Beach City Commission and distributed at the committee meeting.

"These are roadmaps for what enhancements will get funded," added Weithorn. "Our job on this committee is to make sure the city is able to sustain what it builds. You look at two things in a budget: the status quo and enhancements. We need to make sure the enhancements go towards the recommended priorities."

The priorities document lists five "visionary" goals the city needs to accomplish (and the budget should take into account) for the next fiscal year:

- *A "cleaner and safer" environment. Examples given were to keep the crime rate "at or below national trends" and to "improve cleanliness of Miami Beach rights of way."

- *Having a "beautiful and vibrant, mature stable residential community," i.e., reducing the local homeless population and protecting the "historic building stock."

- *Staying a "cultural, entertainment and tourism capital" — that is, improving the "availability and accessibility of major events."

- *Becoming an "international center for innovation in culture, recreation and business." Translation: Become more business-friendly.

- *Have "well-improved infrastructure" by improving parking and traffic flow.

Not mentioned during the discussion was Mayor David Dermer's proposed tax-rebate system for homeowners (the Urban Impact Compensation Fund) that would cost the city between \$653,920 and \$3.3 million. "We haven't taken a position on [that] yet," Weithorn said. "It will come as part of the proposed budget, but we don't comment on a separate item until we see the whole budget."

The proposed budget should be available by the end of July, Weithorn said.

Prior to discussing the city's "visionary" goals, the committee debated a more problematic issue. The local union chapter of the Communication Workers of America (CWA), representing 450 municipal employees ranging from city clerks to lifeguards, had been bargaining with City Manager Jorge Gonzalez over a new three-year wages and benefits contract until an impasse was declared last November. In July 2004, CWA had rejected a wage package offered by the city since, among other issues, the union's demands for equal pension benefits and the opportunity to control its own health trust were not met.

A neutral third party, John McCollister, was hired to mediate a resolution. In a report released this week, he recommended the CWA receive pension improvements and be allowed to form its own health insurance plan, like the Beach chapters of the Fraternal Order of the Police (FOP) and the International Association of Firefighters (IAFF). However, the city rejected McCollister's recommendations.

EXHIBIT

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H
PAGE 1 OF 2

In a letter to June Farrell of the Public Employees Relations Commission in Tallahassee, James Crosland, the attorney representing the city during the arbitration, wrote, "As an initial matter, it should first be noted that the cost of the CWA demands (and the special magistrate's recommendations) greatly exceeds what is fiscally prudent and completely disregards the interest of the city's taxpayers."

"In addition," he continued, "the recommendations were blatantly slanted in favor of the union with respect to many of the city's management rights. In some cases, the recommendations ignored or simply failed to mention or recognize the city's positions and explanations. Finally, [the] report contained a number of inaccuracies and inconsistent statements."

The city rejected the proposed wage increases suggested by McCollister - \$483,434 for year one (2003-04), \$497,937 for year two (2004-05) and \$598,354 for year three (2005-06) - because "the amounts are higher than the city believes to be appropriate. In addition, the special magistrate refused to consider relevant comparative (and statutorily required) wage and benefits data provided by the city."

The city also rejected pension changes because the cost is "excessive and unnecessary," as well as the creation of a separate health trust since it would "have an adverse financial impact on both the city and the remaining participants in the city's healthcare plans."

Overall, said Crosland at the BAC meeting, the union's proposal would cost \$7,150,228. "They could have had what they were asking for [originally]," he said, "but held out to get [things] that are unreasonable."

"What reasoning does the union claim to warrant for these changes, other than the fact that they want more money?" asked BAC member Jonathan Fryd.

No representatives from CWA were present, but Crosland responded with some background data on how CWA (and other unions) experienced cutbacks in the early 1990s due to the city's financial troubles. However, now that FOP and IAFF had their benefits restored, CWA wants equal treatment.

"The union's main theme is...now that - to use one of their phrases - 'you're swimming in money,' it's time for you to give back to us," Crosland said.

After listening to Crosland recap the impasse situation, BAC members sided with the city.

"If they say things like we're 'swimming in money,' I'm offended as a taxpayer," said Fryd. "The Simpsons of Miami Beach are paying more taxes than ever because assessments are going up...and they're barely holding onto houses they've been living in for years."

"Fundamentally," added member Marc Jacobson, "the city's money goes to taxpayers... Even if we're swimming in money now, five years from now, we might be swimming in compost, but these benefits, like Old Man River, will keep on rolling."

Jacobson made a motion advising the mayor and commission to consider how the CWA proposal would impact the city long-term - directly and indirectly.

When informed of the city's position on McCollister's recommendations, Richard McKinnon, president of CWA Local 3178, told the *SunPost*, "We were disappointed. We thought that in the face of an earnest, objective party, the city manager would finally be able to see the unfairness of his positions and negotiate in good faith using the recommended solutions."

The city will appeal all recommendations provided by the special magistrate. The next step is a public hearing before the City Commission.

Added McKinnon, "Working families of CWA Local 3178 will have to wait a little longer for justice and fairness to be finally meted out by the City Commission."

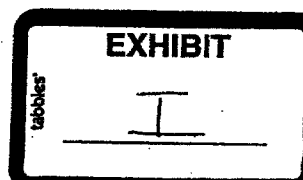
EXHIBIT

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Page 2 of 2

EXHIBIT I

**City proposed
contract
language for
CWA collective
bargaining
agreement**



City Impasse Position for Commission		
Impasse Item	City Impasse Position	Cost Out
1. Term of Agreement - counter still to be presented regarding delay in start of negotiations	3 year	
Wages	Year I - 0% Year II - 1.5% lump 3% Year III - 3.5%	Year I - \$0 Year II - \$241,717 \$483,433 Year III - \$580,926
2. Pension	a). No pensionable OT - Tier A b). Allow promoted Classified employees to stay in Classified pension c). Allow employees in 401A to stop contributions to 401A and start in pension. Add to language - employee will be given a second one-time irrevocable decision.	a). Savings -\$660,396 (year 3) b). No Cost c). Cost - \$35,791 (Year 3)
3. Health Insurance	a). Flexible language for City to change lower options in exchange for lower option plans to employees b). One time election for retiree health c). 10 year vesting for 401A	
4. Election of Remedies	Eliminate Personnel Board and use arbitration only	
5. Union Time Bank	1200 hours Union time bank (to include all time except negotiations and Labor-Management meetings)	
Union Conventions	Time included as part of Union time bank	
6. Cleaning Allowance	Eliminate Cleaning Allowance	-\$72,480 per year
7. Promotions	Status Quo	
8. Increase sick/vacation leave accrual	Status Quo	
9. Temporary Employees	Unlimited use of temporaries	

City Impasse Position for Commission		
Impasse Item	City Impasse Position	Cost Out
10. Random Drug Testing	Random drug testing for all public safety classifications (including Communications Operator, Complaint Operator II, Crime Scene Tech I & II, Dispatcher, Dispatcher Trainee, Lifeguard I, II & Lts., Pool Guards, PET I & II & PSS. Using our language.	
11. Accreditation and Certification Pay	Reject	
12. Lifeguard/Pool Scheduling	Management flexibility on lifeguard scheduling and no 10 hour shifts for Pool Guards	
13. OSHA/Asbestos Standard Removal procedures language	Reject	
14. Tuition Reimbursement Language	Status Quo	
15. Overtime (3.5 times) pay for call-in on day off.	Eliminate provision (pay like AFSCME at 2 ½ times)	-\$19,646 per year
16. Reporting Pay language	Eliminate reporting pay language	
17. Minimum score for automatic step increase	Change minimum score to 75 instead of 50 for a (3%-4%) step increase	
18. Contracting out	Limit obligation for City to discuss contracting out to lay off situations	
19. EMT Lifeguard pay	Status quo with language	
20. Uniforms	a). Reduce number of uniforms from 6 to 5 b). Eliminate "cotton" c). Add sponsorship language	-\$7,122 per year

WAGE PROPOSAL & PAY FOR PERFORMANCE

ARTICLE 8

WAGES AND FRINGE BENEFITS

Section 8.1 Wages

Wage Increase:

A) Fiscal Year 2000/2001

- 1) ~~Effective with the payroll date of September 25, 2000, there shall be an across-the-board wage increase of four percent (4%). In order to obtain any retroactive wage increase, bargaining unit members must be employed with the City on the ratification date of the 2000-2003 collective bargaining agreement or have retired from the City after October 1, 2000. (See Appendix A, Exhibits 1,2)~~
- 2) ~~Effective July 16, 2001, the bargaining unit employees who are in the new classifications listed in item (B, 2) below shall receive a 0.75% increase in their rate of pay. (See Appendix A, Exhibit 5)~~

B) Fiscal Year 2001/2002

- 1) ~~Effective with the payroll date of September 24, 2001, there shall be an across-the-board wage increase of four percent (4%). (See Appendix A, Exhibits 3 & 4)~~
- 2) ~~Effective September 24, 2001, employees who are in the new classifications listed below shall be placed in the following classifications/ranges in the pay plan effective September 24, 2001, in accordance with the following table. (See Appendix A, Exhibit 5)~~

NEW CWA CLASSIFICATIONS

<u>CLASSIFICATIONS</u>	<u>RANGE</u>
Crime Scene Technician I	31
Crime Scene Technician II	34
Police Fleet Specialist	28
Police Photographer	31
Police Records Technician	20
Property & Evidence Technician I	23
Property & Evidence Technician II	27
Public Safety Specialist	23

- 3) ~~Effective April 8, 2002, Steps A, B, and C on the prior contract step plan will be eliminated. Post 11/4/98 employees will receive three (3) steps above step D; Post 11/4/99 employees will receive two (2) steps above step D; Post 11/4/00 through 11/3/01 employees will receive one (1) step above step D. (See Appendix A, Exhibits 6, 7 & 8)~~

WAGE PROPOSAL & PAY FOR PERFORMANCE

~~C) Fiscal Year 2002/2003~~

- ~~1) Effective with the payroll date of September 23, 2002 there shall be an across the board increase of four percent (4%). (See Appendix A, Exhibits 9 & 10)~~
- ~~2) Effective with the payroll date of September 23, 2002, the reclassifications as agreed shall take effect. (See Appendix A, Exhibit 11)~~

Effective upon ratification of this Agreement for fiscal year 2004-2005, bargaining unit employees shall be paid a one-time lump sum payment in the amount of one and one-half percent (1.5%) of the employee's base salary, which amount shall not change the salary ranges, shall not be added to the employee's base salary and shall not be pensionable.

Effective with the payroll date of October 3, 2004, there shall be an across the board wage increase of three percent (3%), and the minimum and maximum of the step plan will also be adjusted by 3%.

Effective with the payroll date of October 9, 2005, there shall be an across the board wage increase of three and one-half percent (3.5%), and the minimum and maximum of the step plan will also be adjusted by 3.5%.

Section 8.18 Step and Longevity Increases.

- a) Starting Salary – New employees will start at the minimum step of the pay range.
- b) First (1st) Step Increase – Newly hired employees shall receive a step increase after satisfactory completion of the probationary period.
- c) Anniversary Date Increase – Step increases shall become effective on the payroll period commencing on the employee's anniversary date. A step increase shall be awarded based upon the employee receiving a ~~satisfactory~~ score of 75 or higher on his/her merit evaluation during that rating period. Anniversary date shall be defined as the date that an employee completes probation or the effective date when promoted to a higher classification.
- d) Longevity Pay - Longevity increases shall become effective on the payroll period commencing on the employee's date of hire. Longevity Pay – Longevity shall be calculated by multiplying the employees' earnings at the end of each pay period by the percentage of longevity pay as determined by years of service per the following table:

WAGE PROPOSAL & PAY FOR PERFORMANCE

<u>Completed Years of Service *</u>	<u>Percentage Increase</u>
7 Years	2.5%
10 Years	5.0%
15 Years	7.5%
20 Years	10.0%
25 Years	11.0%

* This does not include time taken as unpaid leave.

This entire provision shall be effective on April 8, 2002.

PENSION

[CITY PENSION PROPOSAL: Promotees may elect to Remain in Classified Plan]

The City agrees to change the pension plan, after this agreement is ratified, to provide that in a case where an employee who is thereafter promoted to a position that is in the unclassified pension plan, the promoted employee may elect to stay in the classified pension plan.

PENSION

[CITY PENSION PROPOSAL: 401A Employees Can Elect to Start Over as new in Plan]

The City agrees to change the pension plan, after this agreement is ratified, to provide that employees who previously elected to go into the 401A plan may have one more opportunity, within the 90 days that immediately follow ratification of this agreement, to elect to move into the General Employee's (classified) Pension Plan. Any employee who elects to move into the General Employee's Pension Plan shall start accruing pension service from the date the employee is moved into the Plan, with no credit for prior years of service, and the City contribution to the 401A benefit shall cease.

PENSION

[CITY PENSION PROPOSAL: Overtime Eliminated as Pensionable Income for Tier A]

The pension plan shall be changed so that the overtime earnings for Tier A employees in the General Employee's Pension Plan will be eliminated as pensionable income.

HEALTH INSURANCE

Section 8.12. Health Insurance ~~The City shall continue to provide the present level of medical, hospital, and dental benefits to bargaining unit members and their dependents, provided that the Union may seek alternative coverage, if legal; and provided further that such alternate coverage, if obtained, does not result in increased cost to the City.~~

~~The cost of life insurance and health benefits provided by the City, or a carrier contracted by the City, including any increases in such costs which become effective during the term of this Agreement, shall continue to be borne half (1/2) by the City and half (1/2) by the employee.~~

~~In the event of an increase in the cost of insurance, the City will notify the Union at least sixty (60) days prior to the effective date of the increase (or fewer if the City had less notice) and the parties will meet at the request of the Union to discuss alternatives to alter the cost or benefits or to secure a new carrier.~~

~~Domestic Partners as defined by the City shall be included in the City's Group Health Insurance Plan effective December 29, 2001.~~

~~Upon recommendations by the Health Insurance Taskforce, either party can request to re-open this section concerning the percentages to be borne by the City and employees by giving notice within sixty (60) days of the Taskforce report.~~

- a) The City shall offer medical, dental, and life insurance benefit plans to full-time bargaining unit employees and their legal dependents during the term of this Agreement. The City will continue to pay at least fifty percent (50%) of the premium cost for eligible employees. The City will to offer alternative plans as options for employees. The City may change insurance carriers and/or the scope and level of benefits in any plan. The City also may change the percentage of premium cost paid by the City (i.e., provided that it remains at least 50%) from year to year for any one or more of the optional plans available, depending upon the scope and level of benefits available in each of the optional plans.

HEALTH INSURANCE

- b) The City agrees that it will not change the level of benefits during the term of this Agreement without first consulting with the Group Insurance Board, or a labor-management advisory committee created as a substitute for such Board. A bargaining unit employee may serve on this Board/committee for as long as bargaining unit employees participate, exclusively, in the City's group health insurance plan. In the event that the City materially reduces the scope and level of benefits in the current base (PPO or HMO) plan then the Union may request post-implementation impact bargaining.
- c) Employees in the bargaining unit shall be eligible to participate in the City's flexible and voluntary benefits plans, which may be modified by the City from time to time. The flexible and voluntary benefits plans shall be administered by the City.

8.22. Retiree Health Insurance

- a) The parties agree that any bargaining unit member who elected/s to participate in the 401-A retirement program (in lieu of participating in the City's pension plan) shall be required to work at least ten (10) years before becoming eligible for any retiree health benefits from the City.
- b) The parties agree that any bargaining unit member who is eligible for retiree health benefits from the City must make a one time irrevocable election to continue receipt of health benefits via the City's plan at the time that the employee terminates City employment. The parties also agree that if a member initially elects to continue under City health insurance, but thereafter discontinues or is discontinued from such coverage, then the retiree may resume coverage only at their own expense, without any employer contribution whatsoever.

ELECTION OF REMEDIES

Article 4

Grievance Procedure

Section 4.1 Purpose. - It is recognized that complaints and grievances may arise between the bargaining agent and the employer or between the employer and any one or more employees concerning the application or interpretation of any provision of this Agreement. The employer and the bargaining agent desire that these grievances and complaints be settled in an orderly, prompt and equitable manner so that the efficiency of the City of Miami Beach may be maintained and the morale of employees not be impaired. Every effort will be made by the employer, employees, and bargaining agent to settle the grievances at the lowest level of supervision. The initiation or presentation of a grievance by an employee will not adversely affect his standing with the employer.

No reprisals of any kind will be made by agents of the City against the grievant(s) or the Union's representatives by reason of such participation in the processing of their grievance. Similarly, the Union, its officers or agents, shall not impede, malign, or delay the City or management's representative in their duties during the investigation or processing of said grievance.

In order to investigate, discuss and process grievances, representatives and witnesses must request permission 24 hours in advance (except in emergencies), and report their return to work upon conclusion of the use of time for grievance matters.

The parties agree that the grievance/arbitration process set forth in this Agreement shall be the sole and exclusive method of resolving all grievances under this Collective Bargaining Agreement by bargaining unit employees. Accordingly, employees covered by this Agreement shall no longer be able to file an appeal or grievance via the City's Personnel Board procedure for any disciplinary matter, and the parties agree that the Personnel Board shall not have any jurisdiction to hear any grievance or appeal filed by the bargaining unit or any bargaining unit employee regarding discipline or matters concerning the interpretation or application of this Collective Bargaining Agreement.

ELECTION OF REMEDIES

Section 4.3 Special Provisions.

- a) The time limits set forth herein may be extended and/or modified by mutual written agreement.
 - b) If the employer violates any time limits, the bargaining agent may advance to the next step without waiting for the employer's response. If the Union, or the grievant(s) fail to initiate or move the grievance to the first or next step of the grievance procedure, as set forth herein (time limits), it shall be untimely and considered withdrawn.
 - c) The parties acknowledge that, as a principle of interpretation, employees are obligated to work as directed while grievances are pending; except where the safety of a working condition or health of the employee(s) is the basis of the grievance.
 - d) Aggrieved employees, a reasonable number of employees, not to exceed three (3), called as witnesses, and a specifically designated Union representative, shall be allowed to be present at the various formal steps of the grievance procedure, including arbitration. To the extent said employees are on their regular work schedule, they may attend without loss of pay for those actual hours during their regular work schedule. The Union shall notify the City Manager's designee for Labor Relations of who it wishes to call, and then Management will schedule the witnesses to be available as needed. The City will pay for no more than three (3) Union witnesses at an arbitration hearing. If there are circumstances where more than three (3) witnesses are needed, the Union will make a request to the City Manager's designee for Labor Relations, who will make the final decision.
 - e) The Union shall designate to the City the names of the seventeen (17) Union representatives, plus one individual who shall be designated as the Chairman of the Grievance Committee, whose function shall be to assist unit members in the processing of complaints and grievances under this procedure. At Step I, only one (1) union representative will be allowed at any grievance meeting. At Step II & III, only two (2) union representatives will be allowed at any grievance meeting.
- City of Miami Beach employees other than those designated Union representatives shall not be granted time off from work without loss of pay for the processing of grievances with the exception

ELECTION OF REMEDIES

that the President or designee of the Union shall be granted time off with pay to attend and/or participate in appeals to Step III and Arbitration.

Representatives shall be permitted during working hours without loss of pay to investigate, discuss, and process grievances in their respective areas, provided the following conditions are met:

- 1) that they first secure the permission of their immediate supervisor (such permission shall not be unreasonably denied);
- 2) that the supervisor shall be notified twenty-four (24) hours prior to investigating, discussing, and processing grievances on City time (shorter notice may be given in the case of emergencies); and
- 3) that the representative will report his/her return to work to the immediate supervisor upon conclusion of the use of time for grievance matters.

It is agreed by the union that the above list shall be provided on a yearly basis to the employer and updated as to changes in the composition of the designated representative.

f) An employee may request Union representation in accordance with the provisions of this Agreement at each and every step of the grievance procedure set forth in this Agreement.

~~g) The bargaining agent, in accordance with its own lawful internal rules, shall have the sole and exclusive right to determine whether any grievance warrants processing through this procedure. In the event the bargaining agent determines at any step of the grievance procedure that a grievance does not warrant processing, a written notification of that determination shall be sent to the City Manager's designee for Labor Relations. The employee(s) involved shall then be free to process it themselves or through legal counsel.~~

~~h) If the bargaining agent has declined to process or further process any grievance presented to it, and if any employee, or group of employees, desires to process it or further process their own~~

ELECTION OF REMEDIES

~~grievance through this procedure, the bargaining agent shall be sent copies of all written communications sent by the employer or the employee(s) involved. Further, nothing herein contained shall be construed to prevent any public employees from representing, at any time, their own grievance in person or by legal counsel to the employer, and having such grievance(s) adjusted without the intervention of the bargaining agent, provided however, that the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect; and provided further that the bargaining agent has been given notice and a reasonable opportunity to be present at any meeting called for the resolution of such grievances.~~

g) The bargaining agent, in accordance with its own lawful internal rules, shall have the sole and exclusive right to determine whether any grievance warrants processing through this arbitration procedure. In the event the bargaining agent determines at any step of the grievance procedure that a grievance does not warrant processing, a written notification of that determination shall be sent to the City Manager's designee for Labor Relations and to the employee(s) involved who shall then be free to process it themselves or through legal counsel up through Step 3 only.

ih) The bargaining agent shall not be responsible for any costs attendant to the resolution of any grievance(s) it has not processed.

ji) The parties acknowledge that multiple grievances may be combined at any stage of the grievance procedure where the class of aggrieved employees is clearly defined and the subject matter of the grievances is the same or similar.

kj) At Step I, all formal grievances presented shall include the date of the alleged violation, the specific article and section grieved; a brief description of the grievance, and the remedy requested. ~~The Election of Remedy Form shall be attached to the grievance. Grievances processed without the Election of Remedy Form shall be returned the grievant(s). They shall be given five (5) days to submit the Election of Remedy Form. In the event the grievant(s) is not working at the time, upon returning to work they shall be given five (5) days to submit the form. Failure to meet this time limit, the grievance shall be considered as withdrawn.~~

ELECTION OF REMEDIES

~~**Section 4.5 Election of Remedies.** It is agreed by the Union that employees covered by this Contract shall make an exclusive election of remedy prior to filing a grievance or initiating action for redress before the Personnel Board on matters within its jurisdiction. Such choice of remedy will be made in writing on the form that shall be designed, and agreed upon by both parties. The Election of Remedy form agreed upon by both parties shall be included as Appendix A to this collective bargaining agreement. The Election of Remedy Form will indicate whether the aggrieved party or parties wish to utilize the grievance procedure contained in the Contract or initiate action for redress before the Personnel Board. Bargaining unit employees shall be precluded from availing themselves to more than one (1) of these procedures. Selection of redress before the Personnel Board shall preclude the aggrieved party or parties from utilizing said grievance procedure for adjustment of said grievance. The Election of Remedy Form shall be attached to the grievance. Grievances processed without the Election of Remedy Form shall be returned to the Union President or the Grievant(s). They shall be given five (5) days to submit the Election of Remedy Form. In the event the President or the Grievant(s) is not working at the time, upon returning to work they shall be given five (5) days to submit the form. Failure to meet this time limit, the grievance shall be considered as withdrawn.~~

Section 4.7 Differences Concerning Personnel Rules. - A difference of opinion with respect to the meaning or application of the Personnel Rules which directly affects wages, hours, or working conditions may be submitted by the employee or the Union President (or his/her designee) to the City Manager's designee for Labor Relations (or his/her Representative) within ten (10) days after the occurrence of the event giving rise to the difference of opinion. The Human Resources Director (or his/her Representative), and the City Manager's designee for Labor Relations (or his/her Representative), shall discuss the matter with the employee and the Union Representative at a time mutually agreeable to the parties. If no settlement is reached at this meeting, the employee retains his/her right to appeal to the Personnel Board under the statutory procedures governing such appeals.

UNION TIME BANK/UNION CONVENTIONS

[CITY PROPOSAL FOR UNION TIME BANK]

Section XXX?. The CWA shall have the right to conduct union business on City time through the use of a time bank as set forth herein. Beginning in the first full fiscal year after this Agreement is ratified, the time bank shall include 1200 hours per fiscal year, (with no rollover). With the exception of only attendance at negotiations for a successor agreement (as stated in Section 2.6 pf the 2000-2003 Agreement) and attendance at Labor Management Meetings (as stated in Section 9.16 of the 2000-2003 Agreement), this Union time bank shall be used for all union business on City time, including all of the Sections of this Agreement that provide any right for union representation and/or for the investigation, discussion and/or processing of and/or attendance as a witness or representative at grievance and arbitration hearings (such as in Sections 2.1, 4.1, and 4.3 of the 2000-2003 Agreement) and/or employee orientation meetings or other meeting leave (as stated in Section 8.22 of the 2000-2003 Agreement). The CWA President or authorized designee must provide a written request on an approved request form, at least twenty-four (24) hours in advance, to the Department Director and Director for Labor Relations for approval of the use of time from the Union time bank. Requests for use of Union time may not be unreasonably declined, for example, if the use of time may cause scheduling or manpower problems or overtime. Employees/representatives must return to work immediately upon conclusion of the meeting that was the reason for the approved Union time off. No more than two (2) employees/representatives may use time from the Union time bank at the same time, unless specifically approved in writing by the City Manager or designee for Labor Relations.

CLEANING ALLOWANCE

~~Section 8.10 Cleaning Allowance.~~ If required to wear a City uniform, persons employed in the following public contact positions shall receive a uniform cleaning allowance of forty dollars (\$40) monthly.

Air Conditioning Mechanic
Building Inspector
Carpenter I
Carpenter II
Code Compliance Administrator
Code Compliance Officer I and II
Crime Scene Technician I
Crime Scene Technician II
Electrical Inspector
Electrician
Elevator Inspector
Engineering Inspector
Mason
Masonry Helper
Mechanical Inspector
Painter
Parking Enforcement Specialist I and II
Plumber
Plumbing Inspector
Police Fleet Specialist
Police Records Technician
Property Evidence Technician I
Property Evidence Technician II
Police Photographer
Public Safety Specialist

PROMOTIONS – (STATUS QUO)

Section 9.17. Promotions. - Within 120 days of the date the Agreement is ratified by the City, the Labor-Management Committee will meet to discuss selection procedures relative to promotions of bargaining unit employees to other bargaining unit positions.

Section 9.18. Beach Patrol Promotions. - Prior to the end of calendar year 1998, the parties agree to meet to discuss Beach Patrol promotion practices for the positions of Lifeguard II and Lifeguard Lieutenant. Relative to that issue, the parties agree as follows:

- 1) Eligible applicants for promotional exams shall be given a written and an oral examination.
- 2) Applicants must pass an ocean swim test under reasonably common conditions. Conduct of the swim test shall be monitored by Human Resources.
- 3) Applicants must have received at least a satisfactory evaluation in each element of their most recent performance review to be eligible to take the promotional examination.
- 4) The written tests shall be developed under the direction of Human Resources. The reading list for examination materials from which the questions are drawn will be set by the Human Resources Director after consultation with the Department Director and the Union. Any reading lists will be posted at least thirty (30) days prior to the administration of such tests. A copy of an examinee's graded answer sheet shall be furnished to the examinee upon completion of the grading, if requested. All challenges of questions on the written tests must be made in writing to the Human Resources Director within two (2) working days of the testing dates and he/she shall conclusively decide the challenge.
- 5) For the oral tests, questions shall be job related and evaluators shall use common criteria to assess the quality of candidates' answers and to determine scores. Final scores on oral examinations shall be the average of all scores made by evaluators.
- 6) Oral test evaluators shall be knowledgeable of the target position, shall include at least one person who is not a City employee, and shall be selected by Human Resources.
- 7) Promotional lists shall expire two (2) years after the posting of the results of a promotional test or where lists have been combined, two (2) years after the combining of the old and new lists.

**SICK/VACATION LEAVE ACCRUAL AND PAYMENT AT TERMINATION –
(STATUS QUO)**

Section 8.15. Sick and Vacation Leave.

- a) Employees shall be entitled to twelve paid days a year due to illness for themselves or family members.
- b) The present policy concerning sick leave, including the policy for payment of accrued sick and vacation time combined, up to a maximum of one year's salary, upon termination, retirement, or death, shall continue for all employees hired before October 1, 1978.
- c) All employees hired after October 1, 1978 shall, under applicable ordinances, rules, and regulations shall be allowed to accrue no more than 360 vacation hours in accordance with provisions for postponement of vacation leave as set forth in Article 16, Section 3 (b), of this Agreement; be permitted to transfer sick leave in excess of 360 hours to vacation leave at the rate of two days' sick leave to one day vacation leave to be used in the pay period year when transferred; be permitted a maximum payment at time of termination, death, or retirement of 480 hours' vacation leave and one half of sick leave to a maximum of 600 hours.
 - (1) A post October 1, 1978 employee who retires between April 8, 2002 and April 30, 2002, shall be entitled to termination payout of one-half (1/2) of accrued sick leave up to a maximum payout of four hundred and eighty (480) hours.
 - (2) A post October 1, 1978 employee, who retires on or after April 30, 2002, shall be entitled to termination payout of one-half (1/2) of his accrued sick leave up to a maximum payout of six hundred (600) hours.

**SICK/VACATION LEAVE ACCRUAL AND PAYMENT AT TERMINATION –
(STATUS QUO)**

Section 8.16. Sick and Vacation Leave Accrual and Maximum Payment on Termination.

The present policy concerning sick leave, including the policy for payment of accrued sick and vacation time combined, up to a maximum of one year's salary, upon termination, retirement, or death, shall continue for all employees hired before October 1, 1978.

All employees covered by the agreement and hired after October 1, 1978 shall, under applicable ordinances, rules and regulations: shall be allowed to accumulate no more than 360 hours of vacation leave except in accordance with provision for postponement of vacation leave; be permitted to transfer sick leave in excess of 360 hours to vacation leave at the rate of two (2) days of sick leave to one (1) day vacation leave to be used in the pay period year when transferred, be permitted a maximum payment time at termination, death, or retirement of 480 hours vacation leave and one-half of sick leave to a maximum of 600 hours.

See schedule of implementation below:

1. A post October 1, 1978 employee who retires between April 8, 2002 and April 30, 2002, shall be entitled to termination payout of one-half (1/2) of his/her accrued sick leave up to a maximum payout of four hundred and eighty (480) hours.
2. A post 1978 employee who retires on or after April 30, 2002, shall be entitled to a termination payout of one-half (1/2) of his/her accrued sick leave up to a maximum payout of 600 hours.
3. Effective January 1, 2002, the "Must Use" accrual on vacation will be raised to 360 hours.

TEMPORARY EMPLOYEES

[CITY PROPOSAL TO INCREASE TEMPORARY EMPLOYEES]

Section 9.6 "Temporary Employees". - The City shall have the unrestricted right to hire ~~up to an unlimited~~ number of thirty (30) "temporary" employees in any bargaining unit position, provided they are not hired at the detriment of the bargaining unit employees.

Temporary employees being utilized to fill in on short-term vacancies shall not be considered as a detriment to the bargaining unit's employees. Such "temporary" employees shall be paid at rates set in the sole discretion of management and a "temporary" employee's employment service may not exceed one (1) continuous year at any one time.

"Temporary" employees may not work in a classification wherein a permanent Civil Service employee is laid off. The City shall send the Union a report of "temporary" hires. "Temporary" employees shall not be covered by Civil Service or Personnel Board Rules, and they shall serve at the will of their employer without right of appeal or access to the grievance procedure contained herein, and they shall not receive any fringe benefits or pension benefits. Terminated "temporary" employees may be re-hired if their separation is under honorable circumstances.

Regarding the implementation of the unlimited number of ~~thirty (30)~~ Temporary positions, it is understood that those positions were not limited to, but could be used to develop a cadre of employees who, on short notice, could serve as backup for regular employees or for such things as vacancies caused by absences due to maternity, military leave, sick leave, off-duty injury, on-duty injury, and work overload. The examples cited herein are not meant to be all inclusive.

It is further recognized that employees who retire "in good standing" who may be interested in working on a temporary, part-time basis, and should temporary work become available, the retired employees will have the opportunity to make application for one of the temporary positions. Such part-time positions shall not be covered by Civil Service rules or regulations, will have no fringe or pension benefits, and the salary shall be at a rate determined by the City. Further, the temporary employees shall not have a choice of picking schedules, but will be assigned by the City's management on an as needed, when needed, basis.

RANDOM DRUG TESTING

[CITY PROPOSAL FOR RANDOM DRUG TESTING FOR CERTAIN CWA POSITIONS]

NEW Section 10.2. Drug/Alcohol Random Testing. It is important to the safety and welfare of employees and the public that bargaining unit members not be impaired by alcohol while on duty nor use illegal drugs. To demonstrate the commitment of the City and the Union to this notion, employees in the job classifications set forth below will be subject to random testing during the term of this Agreement. Employees will be chosen from a blind list by the Human Resources Department or its designee. The job classifications that are in the CWA Random Drug Testing Pool shall include:

Communications Operators

Complaint Operator II

Crime Scene Technician I

Crime Scene Technician II

Dispatcher

Dispatcher Trainee

Lifeguard I

Lifeguard II

Lifeguard Lieutenant

Police Photographer

Pool Guard I

Pool Guard II

Property Evidence Technician I

Property Evidence Technician II

Public Safety Specialist

RANDOM DRUG TESTING

Section 10.2. Last Chance Agreement. Employees testing positive may be offered the opportunity to enter into a "Last Chance Agreement" (for a maximum duration of 2 years, except in extenuating circumstances) to continue their employment. The Agreement shall require participation in a rehabilitation program and such other requirements as set forth by the City. The City reserves the right to terminate an employee without providing him/her with a Last Chance Agreement, if the incident giving rise to the positive drug test involved threatening or violent behavior or conduct so disgraceful that it causes substantial embarrassment to the Administration. Employees under a Last Chance Agreement who test positive shall be terminated from employment with the City and this is not grievable under the grievance procedure. Employees may be given no more than one (1) chance for substance abuse rehabilitation during employment with the City.

LIFEGUARD AND POOL GUARD SCHEDULING

Section 7.2 Normal Workday. - The normal workday shall consist of eight (8) or ten (10) consecutive hours of work, exclusive of the lunch period, in a twenty-four (24) hour period.

Employees in Beach Patrol will work a four day, ten-hours per day (4-10) workweek except effective with the commencement of Eastern Standard Time after October 2001, when the Beach Patrol shall change from the four-day, ten-hours per day (4-10) workweek to a five-day, eight-hours per day (5-8) workweek. Effective February 1st, of each year through Daylight Savings Time, the Beach Patrol will change to a four-day, ten-hours per day (4-10) workweek. Provided, however, that upon ten (10) days notice, the City may change the above-noted Beach Patrol shifts and scheduled for some or all Beach Patrol employees. The City may, on an as needed basis, supplement the Lifeguard workforce with such "temporary employees" as outlined in Section 9.6.

TUITION REIMBURSEMENT LANGUAGE – (STATUS QUO)

Section 8.24. Educational Leave and Tuition Refund. The City's tuition refund program shall be continued for the term of this Agreement.

TRIPLE TIME AND ONE HALF

Section 7.6 Holiday Celebration and Pay for Working on Holiday.

- a) (See Section 8.3. Holidays) Whenever any of the holidays listed in Section 7.3. Holidays of this Agreement fall on a Sunday (or Monday for employees whose regular day off is Monday), the following workday shall be observed as the official holiday; whenever any of the above listed holidays occur on a Saturday (or Friday for employees whose regular day off is Friday), the preceding workday shall be observed as the official holiday. In such cases, the day on which the holiday is observed shall be considered to be the paid holiday and not the regular day.

City celebrated holidays that fall on Tuesday, Wednesday, or Thursday, and said holiday is on the employee's regular day off, then the employee shall receive a day's pay for said holiday, if they meet all of the qualifications contained herein.

- b) To be eligible for a paid holiday, an employee must report for scheduled work on the holiday, on the last scheduled day preceding the holiday and the first scheduled day following the holiday unless such absences are excused. Excused absences are defined as:
- 1) an employee calls in sick and is eligible to receive paid sick leave, and who is granted sick leave usage;
 - 2) approved annual leave;
 - 3) floating holiday;
 - 4) birthday.
- c) Whenever an observed holiday occurs on an employee's scheduled day off and the employee does not work thereon, the employee shall receive for his/her normal workday a straight time hourly rate of pay for the holiday.
- d) Work on a holiday falling on an employee's regularly scheduled workday, he/she shall receive holiday pay for the holiday and time and one half for the hours worked.
- e) Should an employee be required to work on a holiday falling on his/her day off, he/she shall receive holiday pay for the holiday and time and one half for the hours worked. ~~shall receive pay at double time and one half rate for the hours worked.~~
- f) Failure to report for work on, before, after, or during the holiday after having been scheduled to work on such holiday shall be just cause for denial of holiday pay.
- g) A holiday which is observed during an employee's regularly scheduled workweek shall be considered as time worked for the purpose of computing overtime.

REPORTING PAY LANGUAGE

Section 7.8 Reporting Pay. ~~An employee who reports to work as scheduled will be guaranteed eight (8) hours of work or eight (8) hours of pay; (or, for those on ten-hour days, ten hours of work or ten of pay); provided, however, that supervisors may assign employees to perform any reasonable work.~~

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CONTRACTING OUT

Section 9.11 Notification in the Event of Transfer or Contracting Out. - When the City contemplates entering into a contract with an outside supplier or service agency to perform services presently being performed by the Bargaining Unit employees and such contract shall result in the lay-off of any bargaining unit employee, the City agrees that it will, upon written request, ~~within ten (10) days thereafter,~~ meet and discuss with the representatives of the Union ~~both the decision to contract and the effect of such contract upon members of the Bargaining Unit. Such discussions will include a review of any cost analysis done by the City and will occur prior to the execution of such a contract. No contract shall be entered into until the City and the Union have participated in a good faith discussion of all the issues related to the decision to contract and its effects.~~

If the City enters into such a Contract and, as a result thereof, an employee will be laid off, the City agrees to ask the Contractor to provide first consideration for such employee ~~shall be entitled to first consideration by the Contractor~~ for any available work.

In the event that the employee is not employed by the Contractor, the City will offer such employee another available job with the City, if there is a budgeted vacancy and the employee affected by the subcontracting is qualified to perform. Questions of qualification to perform the job duties shall be decided in the sole discretion of the Human Resources Director.

If there are no jobs available, the Reduction in Force provision contained in this Agreement shall apply, provided that such laid-off employee shall be recalled to work before the City hires new, permanent employee to perform the work of the classification held by the employee at the time of the layoff.

This recall right shall exist for up to the individual's total service time with the City, but not to exceed two (2) years after the date of the person's layoff date, but such recall right shall cease as of two (2) years after layoff, or if the employee does not return to work as scheduled if he/she is offered a recall notice prior to the two (2) years.

It shall be the responsibility of the laid-off employee to notify the Human Resources Department when technical skills, training, and experience have been enhanced during the lay-off period, which may allow the individual to apply for another bargaining unit job with the City.

Nothing in this Section will be construed to limit the Union's right to bargain concerning the identified impact or effects of subcontracting out or transferring upon Bargaining Unit members.

EMT LIFEGUARD PAY – (STATUS QUO)

Section 8.26. EMT Certification Pay. Lifeguard I, Lifeguard II, Lifeguard Lieutenants, and Full-time Pool Guards who attain and maintain the Emergency Medical Technician (EMT) certificate given by the State of Florida shall receive a five percent (5%) pay increase. This provision shall be effective on April 8, 2002.

UNIFORMS

Section 8.11. Uniform Provision. Persons employed in all divisions, including the Public Safety Communications Unit (PSCU), who are compelled to wear City-issued uniforms shall be provided with five (5) ~~six (6)~~ uniforms.

Lifeguards and full-time pool guards shall be provided with one (1) ~~cotton~~ sweat suit per year, and a winter jacket every five (5) years. Six (6) long sleeved/short sleeved ~~cotton~~ shirts or any combination thereof shall be offered to Lifeguard I, II, Lieutenant, Pool Guard I, II, to further protect them from the dangerous ultra-violet rays.

Uniforms will be issued on the following schedule:

- a) All uniforms will be delivered to the employees in the month of January of each year.

Sponsorship: In the event that the City enters into an agreement with any outside sponsor concerning uniforms that may be issued to any employee(s) (but not necessarily all employees) who are in the bargaining unit, these sponsored uniforms may be issued to satisfy the contractual uniform obligations. No additional contract obligations concerning uniforms are hereby created, and such sponsored uniforms may be discontinued at any time by the City.

A: CITY PROPOSALS - ELIMINATE CLEANING ALLOW & UNIFORMS/SPONSORSHIP